

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Benjamin Salk	Team: Team # 5	CCRB Case #: 200813248	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 08/09/2008 5:20 PM	Location of Incident: § 87(2)(b)	Precinct: 32	18 Mo. SOL 2/9/2010	EO SOL 2/9/2010	
Date/Time CV Reported Thu, 09/11/2008 1:17 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 09/11/2008 1:17 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POF Berenice Delacruz	09378	936039	PSA 6
2. Officers			
3. LT Dennis Cullen	00000	900267	PSA 6
4. DTS Severino Concordia	00397	910614	PSA 6

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT William Gallagher	01160	925327	PSA 6
2. POM Christophe Heredia	25821	938656	PSA 6

Officer(s)	Allegation	Investigator Recommendation
A.POF Berenice Delacruz	Abuse: PO Berenice DeLaCruz entered § 87(2)(b) in Manhattan.	§ 87(2)(b)
B.DTS Severino Concordia	Abuse: Det. Severino Concordia entered § 87(2)(b) in Manhattan.	§ 87(2)(b)
C. Officers	Abuse: Officers entered § 87(2)(b) in Manhattan.	§ 87(2)(b)
D.LT Dennis Cullen	Force: Lt. Dennis Cullen used physical force against § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)
E.LT Dennis Cullen	Discourtesy: Lt. Dennis Cullen spoke obscenely and/or rudely to § 87(2)(b), § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)

Synopsis

On August 9, 2008, at about 5:10 PM, PO Berenice Delacruz and Det. Severino Concordia were patrolling outside in the Polo Grounds NYCHA development in Manhattan. They received a radio run and went to § 87(2)(b), where they met § 87(2)(b), who alleged to them that § 87(2)(b) with whom she has a romantic relationship, had stolen her iPod and sunglasses. § 87(2)(b) informed the officers that § 87(2)(b) was upstairs in § 87(2)(b) and the officers went to that apartment and knocked on the door. They were met by § 87(2)(b), § 87(2)(b)'s grandmother, who told the officers to wait there and walked back into the apartment to find § 87(2)(b). The officers stepped inside the apartment (**Allegations A and B**). Shortly after, several additional occupants of the apartment approached where the officers were standing near the front door and began yelling at them to leave. The officers remained inside and called for assistance over the radio. Several officers, including Lt. Dennis Cullen, arrived at the apartment and came inside (**Allegation C**). Another family member, § 87(2)(b) stood in the doorway and prevented Lt. Cullen from entering; Lt. Cullen forcibly removed him from the doorway and he was arrested for obstructing governmental administration (**Allegation D**). Lt. Cullen also allegedly pushed aside § 87(2)(b), § 87(2)(b)'s daughter, who also attempted to prevent him from entering the rear of the apartment (**also under Allegation D**). § 87(2)(b) was located in a bedroom and placed under arrest for § 87(2)(b). Lt. Cullen allegedly used the word "fuck" with § 87(2)(b), § 87(2)(b), and § 87(2)(b) at various times (**Allegation E**).

§ 87(2)(g)

Summary of Complaint

Initial Complaint and CCRB Testimony (encl. 4)

§ 87(2)(b) filed this complaint by phone with the CCRB on September 11, 2008. On October 7, 2008, she was interviewed at the CCRB. § 87(2)(b) is a § 87(2)(b)-year-old black female standing 5'5" and weighing 201 pounds.

On August 9, 2008, there was a "family day" event at § 87(2)(b)'s NYCHA complex. Several family members were visiting. At about 4:00 PM, § 87(2)(b) was inside her apartment, watching TV in her bedroom. Two uniformed officers, identified by the investigation as Det. Severino Concordia and PO Berenice Delacruz, came to § 87(2)(b)'s door. § 87(2)(b) described Det. Concordia as an Asian male, 5'4"-5'5" and skinny, no facial hair, wearing glasses, in his late-30s to early-40s, and PO Delacruz as a Hispanic female, 5'4"-5'5", medium build, with long hair in a ponytail, in her 30s.

§ 87(2)(b) answered the door. Det. Severino asked § 87(2)(b) about the whereabouts of § 87(2)(b)'s son, § 87(2)(b). § 87(2)(b) does not live with § 87(2)(b) but was visiting for the day, and § 87(2)(b) believed he may have been in the apartment. She told the officers to wait at the door, saying, "Hold on, I'll go and see." She did not invite them in, and turned around and walked back into the apartment, with the officers outside in the hallway. Her door automatically began to swing shut on its hinge behind her. She did not lock the door behind her and noted that unless the door is actively locked, it can be opened from the outside.

As she went back to find § 87(2)(b) she heard a "commotion" coming from the front door. Her other two sons, § 87(2)(b) and § 87(2)(b) were in the living room. They were speaking to the officers, asking why they had come inside. § 87(2)(b) retrieved § 87(2)(b) who returned to the front door and observed Det. Severino attempting to prop open the front door with a broom that had been located in the kitchen, several feet from the front door.

§ 87(2)(b) asked the officers why they came inside. She told them that she would bring § 87(2)(b) out to the hallway if he was home. The officers did not respond to her questions, but tried to go around § 87(2)(b) into the rear of the apartment. § 87(2)(b) told them they could not go back into the

apartment. At around this time, the officers called for backup. 10 to 12 plainclothes officers responded to the apartment and came inside. § 87(2)(b) could not describe the majority of them. They entered and several went straight to the rear of the apartment. § 87(2)(b) told them not to go inside, and asked several of them why they were there. They did not respond. She stopped one, identified by the investigation as Lt. Dennis Cullen, and told him, "I'm the head of the household. What's going on? What's the problem?" She described Lt. Cullen as a white male in plainclothes, including shorts and a striped shirt, 5'6" tall, with a muscular build and otherwise unknown. Lt. Cullen said to her several times, "Move, move." He then pushed past her and went to the back of the apartment. He pushed § 87(2)(b) against a wall, which caused no pain or injury.

§ 87(2)(b) then approached an unidentified officer in a white uniform shirt, described as a black or Hispanic male, 5'6" and stocky. The officer asked her to step into the hallway because they could not hear each other. They went into the hallway and § 87(2)(b) asked him why the officers were coming into the house. He did not substantively answer her.

Several officers, including Lt. Cullen, then brought § 87(2)(b) out from the apartment into the hallway. Lt. Cullen called § 87(2)(b) a liar several times, apparently in reference to the fact that § 87(2)(b) had actually been inside the apartment.

§ 87(2)(b) then came outside and asked why the officers were in the apartment and asked them to leave. He repeatedly asked them why they were in the apartment. Several unknown officers then grabbed him, put him on the floor facedown, and cuffed him behind his back. This occurred in the hallway. They also pointed at § 87(2)(b) who was in the apartment, and said, "Arrest him, too." They handcuffed him and took him from the apartment.

§ 87(2)(b) did not have any knowledge of why the officers were searching for § 87(2)(b).

Results of Investigation

§ 87(2)(b) (encl. 7)

On October 7, 2008, § 87(2)(b) was interviewed at the CCRB. § 87(2)(b) is a § 87(2)(b)-year-old black male standing 5'8" and weighing 185 pounds. He is the brother of § 87(2)(b) and § 87(2)(b) the son of § 87(2)(b) and the grandson of § 87(2)(b) but does not reside with her.

§ 87(2)(b) was in a back bedroom at § 87(2)(b)'s apartment when the officers first arrived, and he did not witness their initial interactions with § 87(2)(b) when she opened the door. When § 87(2)(b) walked to the back of the apartment to look for § 87(2)(b), § 87(2)(b) exited the bedroom and walked to the living room, located at the front of the apartment near the front door. His other brother § 87(2)(b) also walked to the living room at the same time.

When they got to the living room, they saw two officers, identified by the investigation as PO Delacruz and Det. Concordia, standing inside the apartment near the front door. § 87(2)(b) described PO Delacruz as a uniformed Hispanic female in her mid-20s, 5'5", medium to slightly heavy build, with long hair in a bun, and Det. Concordia as a uniformed South Asian male in his 30s, of medium complexion, 5'6", skinny, partly bald, with no facial hair or glasses.

The officers had propped the door open with a broom. § 87(2)(b) and his brother § 87(2)(b) asked the officers why they came inside and the officers did not give any substantive response, instead telling them only to "calm down." § 87(2)(b) and § 87(2)(b) asked them to leave three or four times and the officers refused. This went on for several minutes. The officers did not ask them any questions about § 87(2)(b) and remained in the front of the apartment near the door. § 87(2)(b) then called to § 87(2)(b) saying, "Ma, they're in the house," and § 87(2)(b) came back to the front of the apartment. At around this time, PO Delacruz called for backup over her radio. While waiting for backup, the officers did not attempt to walk any further back into the apartment, and remained near the door.

Fifteen to twenty officers, both in plainclothes and in uniform, arrived and began to enter the apartment. § 87(2)(b) could not describe the majority of these officers in any detail. § 87(2)(b) stood in the doorway in order to try to prevent them from coming inside. He also said several things to the effect of, "Why are you all coming in my house like this?" and, "What's the problem, what's going on?"

An officer whom § 87(2)(b) knows by the nickname "Johnny Bravo," identified by the investigation as Lt. Dennis Cullen, arrived at the apartment. § 87(2)(b) described Lt. Cullen as a white male in plainclothes, 6'1", with a medium to muscular build. Lt. Cullen said to § 87(2)(b) and to § 87(2)(b), who was standing nearby, "Shut the fuck up and move out of my way." § 87(2)(b) said, "Why are you talking to me like this?" and demanded to know why they were coming into the apartment. Lt. Cullen

ignored her and provided no reason for coming inside. Lt. Cullen then pointed at § 87(2)(b) and said, "Him right there – get him." He then pulled § 87(2)(b) out of the doorway. He grabbed one of § 87(2)(b)'s arms with two hands; meanwhile a second officer, described only as a chubby, bald Hispanic male in plainclothes, grabbed him with two hands on his other arm. In one motion, they pulled him out of the doorway and pushed him to the floor in the hallway, facedown. They did this without touching him anywhere else on his body. § 87(2)(b) was handcuffed there. He saw nothing that happened subsequently in the apartment.

§ 87(2)(b) (encl. 5)

On October 7, 2008, § 87(2)(b) was interviewed at the CCRB. § 87(2)(b) is a § 87(2)(b)-year-old black male standing 6'1" and weighing 220 pounds. He is a brother of § 87(2)(b) and § 87(2)(b) and the son of § 87(2)(b) and grandson of § 87(2)(b).

On August 9, 2008, § 87(2)(b) was present at § 87(2)(b)'s apartment, for family day at her housing complex. He was in a back bedroom at the apartment when the officers entered, sometime in the afternoon. He was alone in the room and was watching TV. He did not witness the officers enter the apartment but believed they entered without permission. He heard them as they were in the hallway, and was about to exit to see what was going on, when three officers entered his room, one of whom has been identified as Lt. Cullen, and was described as a white male, 6'2", with a muscular build and light brown or dirty blonde hair. The officers pushed him against his bed, and asked if he was § 87(2)(b). When he answered affirmatively, the officers handcuffed him. He suffered no pain or injury. He said to the CCRB that he had had an unspecified conflict with the mother of his children, identified by the investigation as § 87(2)(b), and knew his arrest to be related to that conflict.

§ 87(2)(b) (encl. 6)

On October 7, 2008, § 87(2)(b) was interviewed at the CCRB. § 87(2)(b) is a § 87(2)(b)-year-old black male standing 6'1" and weighing 250 pounds. He is the brother of § 87(2)(b) and § 87(2)(b) the son of § 87(2)(b) and grandson of § 87(2)(b).

§ 87(2)(b) was in § 87(2)(b)'s apartment when PO Delacruz and Det. Concordia came inside. He witnessed them enter and attempt to prop open the door with a broom, and § 87(2)(b) asked the officers why they were coming into the house without a warrant. § 87(2)(b) then walked to the front door and attempted to remove the broom from the door. PO Delacruz told him to leave it where it was. § 87(2)(b) asked why they put the broom there when his grandmother didn't invite them in. The officers then called for backup. § 87(2)(b) continued to attempt to remove the broom from the door, and several minutes later roughly 12 to 14 additional officers responded. Some of these officers were in plainclothes and some were in uniform. § 87(2)(b) stood in the doorway and told these additional officers not to come inside, because they did not have a warrant. An officer identified by the investigation as Lt. Cullen grabbed § 87(2)(b) with both hands somewhere on the front of his body, either on his arms or chest, and threw him to the ground. Other officers handcuffed § 87(2)(b) including an unidentified black male officer, 6'1" to 6'3" and muscular, wearing a football jersey. § 87(2)(b) described Lt. Cullen as a plainclothes white male, 6'0" to 6'1", with a muscular build, with unknown hair color. He said that Lt. Cullen is known as "Johnny Bravo" in the neighborhood because he looks like the cartoon character of the same name.

An unknown number of officers entered the apartment to look for § 87(2)(b). § 87(2)(b) told them several times that they should not be coming in without a warrant. § 87(2)(b) entered a bedroom to avoid being arrested, and remained there for several minutes. He did not witness anything further that occurred inside. In the hallway at the end of the incident, Lt. Cullen argued about whether he should have entered the apartment with an unidentified white male uniformed officer of unknown further description. Lt. Cullen also called § 87(2)(b) a "fucking liar" in the hallway.

§ 87(2)(b) (encl. 8)

On October 7, 2008, § 87(2)(b) was interviewed at the CCRB. § 87(2)(b) is a § 87(2)(b)-year-old black female standing 5'5" and weighing 190 pounds. She is the daughter of § 87(2)(b) and the mother of § 87(2)(b), § 87(2)(b) and § 87(2)(b).

§ 87(2)(b) was in a back bedroom in § 87(2)(b)'s apartment when the officers entered. She heard § 87(2)(b) calling § 87(2)(b) saying, "Ma." § 87(2)(b) walked out into the hallway and heard § 87(2)(b) saying something to the effect of, "Well, I didn't ask you guys to come in." § 87(2)(b) walked

closer and saw two uniformed officers, identified by the investigation as PO Delacruz and Det. Concordia, in the living room, near the front door. She described PO Delacruz as a Hispanic female, 5'3" and medium build, and Det. Concordia as a Hispanic or white male, about 5'5" to 5'7".

About five minutes later, about six plainclothes officers entered the apartment. They pushed the door open and came in without saying anything to anyone. They proceeded toward the back of the apartment through the interior hallway. § 87(2)(b) was still standing in the interior apartment hallway at this time. She asked what they were doing and why they were coming inside. An officer identified by the investigation as Lt. Cullen told her, "Mind your fucking business." § 87(2)(b) described Lt. Cullen as a white male, 6'0", medium build, in plainclothes, and specified that he is known to her sons as "Johnny Bravo."

§ 87(2)(b) stood in the apartment hallway and attempted to prevent the officers from passing. Lt. Cullen attempted to push past her, and grabbed her by her right arm, near the bicep. She said, "Get off me, you're hurting me." He then pushed her by that arm through an open door into a bedroom, where § 87(2)(b) fell against a dresser in the bedroom; her lower right arm made contact with the dresser, which caused a small bruise, which was not visible at the time of her CCRB interview. Lt. Cullen and several other officers walked past her into the rear of the apartment. She next saw them when they were leaving the apartment with § 87(2)(b) in handcuffs.

She later heard an unknown officer say, in reference to § 87(2)(b) "Put him in handcuffs." Two male officers of unknown description took § 87(2)(b) out of the apartment, put him on the ground and handcuffed him. § 87(2)(b) could not see this happen because other people were standing in the way. § 87(2)(b) protested about the way they treated § 87(2)(b) and Lt. Cullen told her, "Shut the fuck up." She also heard Lt. Cullen reference a prior interaction he had with § 87(2)(b) and mentioned the fact that § 87(2)(b) wouldn't give his name in that incident. During this time, she heard § 87(2)(b) saying, "I didn't do nothing," but heard no response.

Later, in the hallway, § 87(2)(b) asked Lt. Cullen why they were arresting her family members and he told her to "shut the fuck up," and said, "I'm not listening to nothing you're saying, because you're a fucking liar." He also called § 87(2)(b) a "fucking liar."

At this point, with several officers standing in the hallway, § 87(2)(b) asked Lt. Cullen, "Can I have your badge number." She was looking at him, but he was not looking at her and did not respond in any fashion. They were standing three or four feet apart at the time, and the area was "crowded" because all the officers as well as § 87(2)(b)'s family were all in the immediate vicinity. § 87(2)(b) believed he heard her request, but he gave no indication at all that he heard her, and § 87(2)(b) said it was possible that he did not hear the request.

PO Berenice Delacruz

Memo Book (encl. 9)

PO Delacruz's memo book indicated at 4:00 PM there was a radio run regarding a larceny at § 87(2)(b). At 5:00 PM, there was a second radio run regarding a past robbery regarding an iPod taken in front of § 87(2)(b). At 5:10 PM, she wrote, "going to § 87(2)(b) in regards to iPod." At 5:22 PM, she had two individuals under arrest — § 87(2)(b) [sic] § 87(2)(b) born § 87(2)(b), was under arrest for § 87(2)(b), and § 87(2)(b) born § 87(2)(b), was under arrest for § 87(2)(b). Lt. Cullen was on the scene to verify the arrests. PO Delacruz returned to PSA 6 at 5:30 PM and had entries regarding arrest processing after that.

Complaint and Arrest Reports (encl. 10)

PO Delacruz prepared a complaint report, regarding a complaint reported by § 87(2)(b) at 5:35 PM on August 9, 2008. § 87(2)(b) reported that at 5:00 PM that same day, § 87(2)(b) (who is listed as § 87(2)(b) on the report) stole her iPod and Prada glasses from her. The case is listed as closed, with an arrest made. The report indicates that a black iPod and Prada glasses were collected as evidence.

PO Delacruz also prepared a complaint report regarding § 87(2)(b). § 87(2)(b)'s complaint report indicates that beginning at 5:20 PM on August 8, 2008, inside of § 87(2)(b), § 87(2)(b), § 87(2)(b), § 87(2)(b). The complaint is classified as § 87(2)(b). No injuries were sustained.

PO Delacruz prepared arrest reports for both § 87(2)(b) and § 87(2)(b) which are consistent with the information in their respective complaint reports.

CCRB Testimony (encl. 11)

On January 6, 2009, PO Berenice Delacruz was interviewed at the CCRB. PO Delacruz is a § 87(2)(b) year-old Hispanic female standing 5'3" and weighing 140 pounds. She has 4 years' tenure with the NYPD and is assigned to PSA 6. On August 9, 2008, PO Delacruz worked a tour of 10:00 AM to 6:00 PM. She was assigned to patrol the Polo Grounds NYCHA complex due to the Family Day event. She was partnered with Det. Severino Concordia, dressed in uniform, and assigned to a marked van numbered 9458.

On August 9, 2008, PO Delacruz was working in the Polo Grounds housing project in Manhattan, on patrol and providing a security presence for the "family day" event. At about 4:00 PM, there was a radio run about a larceny at § 87(2)(b). She saw unidentified plainclothes officers from PSA 6 respond to that location, but there was no one there, and they gave a disposition of "unfounded" about the radio run.

At about 5:00 PM, there was another call over the radio about a larceny at the same location. PO Delacruz and Det. Concordia went to § 87(2)(b), where they met § 87(2)(b), who was there with her baby. § 87(2)(b) said that her child's father had stolen her iPod and her Prada glasses, after an argument over their child. (PO Delacruz believed this was § 87(2)(b) but he has been identified by the investigation as § 87(2)(b). She did not specify exactly when § 87(2)(b) had allegedly stolen her property, but implied that it had occurred that afternoon. § 87(2)(b) told the officers that § 87(2)(b) had gone upstairs to apartment § 87(2)(b) and that he was "there right now." PO Delacruz and Det. Concordia went upstairs to that apartment.

Upon arriving at apartment § 87(2)(b), PO Delacruz stood outside the door and heard voices inside the apartment. She knocked and a female, identified as § 87(2)(b) by the investigation, opened the door. § 87(2)(b) looked nervous. PO Delacruz stood in the building hallway outside the door and said, "Where's § 87(2)(b) I know he's here, tell him to come out so I can hear his side of the story with his kid's mother." § 87(2)(b) said, "One second, let me go see if he's here." She turned around and walked down a long hallway toward the back of her apartment, leaving the door open behind her. She did not verbally indicate whether she wished for the officers to come inside or stay outside, and took no action to shut the door. The door began to swing shut automatically. PO Delacruz stood outside in the hallway. She placed her foot in the door to keep it from closing completely. It remained open less than a foot. Det. Concordia also stood outside.

Less than a minute later, PO Delacruz heard § 87(2)(b) screaming, "Why you keep on messing with that girl? She's going to keep on calling the cops on you." PO Delacruz heard at least two distinct voices screaming. She and Det. Concordia then walked inside the apartment. At this time, PO Delacruz had not yet decided to make an arrest, and wanted only to investigate the incident and to obtain the other side of the story about the alleged theft. She did believe, however, that § 87(2)(b)'s complaint gave her probable cause to arrest § 87(2)(b) if she decided to do so.

PO Delacruz and Det. Concordia briefly stayed in the apartment's entry hallway without interacting with anyone for a short time. They remained within one-and-a-half arm's lengths of the front door. Soon afterward, several people – approximately three or four males and three females, including a black male 6'2"-6'3", 200 pounds, with an afro haircut, and identified as § 87(2)(b) – came from the back of the apartment. They appeared angry. § 87(2)(b) said, "What are you doing here? Get the fuck out of my house, you're not supposed to come in here." When she told him to stop walking toward her, he refused. He placed an open palm on PO Delacruz's body and attempted to push her out of the apartment. At this point, PO Delacruz called for backup over the radio due to the potentially dangerous situation.

PO Delacruz attempted to talk to the group and calm them down, saying, "Listen, we came here to investigate a situation." An unknown one of the male individuals said, "Oh, I don't have her shit, get the fuck out of my house, get out of here. You're not supposed to come in here, you can't do that." PO Delacruz recognized § 87(2)(b) among the individuals, because she normally works on domestic violence cases in the housing development and he had been the subject of prior domestic violence complaints. She also knew that he has a twin brother (identified as § 87(2)(b) by the investigation). § 87(2)(b) insisted that he did not have § 87(2)(b)'s property. PO Delacruz said to him, "So, let's talk," but everybody continued screaming.

PO Delacruz was standing next to the kitchen, which was immediately next to the apartment's entrance. She said, "Okay, I want everyone away from the kitchen." They ignored this order. Shortly afterward, an unknown number of officers then responded to PO Delacruz's request for assistance and

came inside the apartment. Lt. Cullen and Sgt. William Gallagher were the only officers PO Delacruz recognized or could remember responding. When asked, PO Delacruz acknowledged that people in the housing development refer to Lt. Cullen as “Johnny Bravo.” Lt. Cullen was in plainclothes.

Due to the crowd in the apartment hallway, the responding officers were unable to locate PO Delacruz. § 87(2)(b) was placed under arrest, and § 87(2)(b) was also arrested because he physically obstructed the officers from arresting § 87(2)(b). § 87(2)(b) was pushing and shoving PO Delacruz and other officers, and PO Delacruz tried to keep her from interfering, stating, “Ma’am, stay here, stay here, I’m going to tell you what’s going on.” Everyone was screaming.

The officers did recover an iPod at the apartment but it was not the color that § 87(2)(b) had articulated. They asked § 87(2)(b) if it was her iPod and she said no but insisted that he did steal hers.

PO Delacruz did not hear Lt. Cullen use the word “fuck,” or any other profanity, and stated only that he was “very concerned for his officers.” She did not see anything in particular that he did inside the apartment because it was dark and crowded.

When PO Delacruz exited the apartment, § 87(2)(b) was already outside in handcuffs. She did not witness his apprehension. She did not remember if he was on the floor or standing. During that time, she was mostly trying to calm down the females inside the apartment and to keep them away from the people being arrested. § 87(2)(b) was cursing, screaming, and telling the officers to “get out,” and saying, “My brother didn’t do anything,” and, “My brother isn’t going nowhere.” These were the actions that led to him being charged with § 87(2)(b). She did not witness him physically interfere with the arrest. She did not witness § 87(2)(b)’s arrest. PO Delacruz did not hear anyone request any officer’s name or shield number, and noted that it was extremely loud, crowded, and chaotic, with police and civilians constantly going in and out of the apartment.

Det. Severino Concordia

Memo Book (encl. 12)

Det. Concordia’s memo book indicated that at 5:15 PM there was a report of a robbery at § 87(2)(b) § 87(2)(b). At 5:22 PM Det. Concordia and PO Delacruz were at apartment § 87(2)(b) § 87(2)(b). At 5:26 PM, suspects were under arrest and they were in route to PSA 6 for processing.

CCRB Testimony (encl. 13)

On January 22, 2009, Det. Severino Concordia was interviewed at the CCRB. Det. Concordia is a § 87(2)(b)-year-old Hispanic male standing 5’3” and weighing 135 pounds, with brown hair and brown eyes. He has 18 years’ tenure with the NYPD and is assigned to PSA 6. On August 9, 2008 Det. Concordia worked from 11:35 AM from 8:10 PM. He was assigned to foot patrol in the Polo Grounds NYCHA complex with PO Delacruz and was dressed in uniform.

§ 87(2)(g)

Det. Concordia said that he was the first to speak to § 87(2)(b) instead of PO Delacruz. § 87(2)(b) met the officers at the front door, and appeared cooperative. When she turned around to look for § 87(2)(b) in the apartment, she left the door wide open, and Det. Concordia believed there was no mechanism on the door which automatically caused it to close behind her. Det. Concordia believed her behavior was inviting them to come inside, because she initially held the door open, did not shut it, and never verbally expressed a desire to have them either come inside or stay outside. They came about two steps inside the apartment and remained there. Det. Concordia heard male voices yelling from the back of the apartment, and § 87(2)(b) came back shortly and said § 87(2)(b) was not home.

Shortly after, several male individuals (whom Det. Concordia did not know by name) came to the front of the apartment and began aggressively yelling at Det. Concordia and PO Delacruz to “leave” and repeatedly asking why they were there. Det. Concordia recognized § 87(2)(b) in a photograph as one of these individuals. The officers remained inside. Because he was afraid of the situation escalating to a dangerous degree, Det. Concordia put a request for assistance over the radio.

Many additional officers responded. Det. Concordia did not recall any females other than § 87(2)(b) in the apartment. He saw § 87(2)(b) later in the incident, but only after he had been handcuffed.

Det. Concordia identified Lt. Cullen and Sgt. William Gallagher as having responded to the location but could not identify any other officers who responded.

Det. Concordia did not hear profanity used by any officers and did not recall anyone asking any officer for a shield number. He did not recall any civilians lying on the ground during the incident. He was unaware of any officer being known as “Johnny Bravo.”

Lt. Dennis Cullen

Memo Book

Lt. Cullen stated that he did not keep a memo book at the time of this incident and had no relevant entries.

CCRB Testimony (encl. 14)

On March 11, 2009, Lt. Dennis Cullen was interviewed at the CCRB. Lt. Cullen is a § 87(2)(b)-year-old white male standing 6’1” and weighing 220 pounds, with light brown hair and green eyes. He has 17 years’ tenure with the NYPD, and is currently assigned to Manhattan North Narcotics, but was a lieutenant in PSA 6 at the time of the incident. On August 9, 2008 Lt. Cullen did not recall his exact tour, but worked in the afternoon as special operations lieutenant and was supervising the officers patrolling the Polo Grounds NYCHA complex regarding the family day event. He was working alone, dressed in plainclothes and was assigned to an unmarked gold Crown Victoria.

Lt. Cullen responded to the request for assistance put over the radio, and was first officer to arrive on the § 87(2)(b) floor. When he reached apartment § 87(2)(b), he heard yelling coming from inside, but could not hear any specific statements being made. When he reached the apartment door, he was prevented from entering by a male, whom Lt. Cullen identified by name as § 87(2)(b). § 87(2)(b) was standing in the doorway, with his hands on the door jams on both sides, completely blocking the entrance. He said to Lt. Cullen, “You’re not coming in here.” Lt. Cullen could not see Det. Concordia or PO Delacruz from outside the apartment and wanted to reach them as quickly as possible because he was concerned for their safety. Lt. Cullen yelled at § 87(2)(b) “Move,” and § 87(2)(b) remained in the way. Lt. Cullen then grabbed § 87(2)(b) by his shirt with both hands and pushed him out of the way to gain access to the apartment. He did not know if § 87(2)(b) remained on his feet or fell to the ground, because he went directly into the apartment.

Once inside the apartment, there was a crowd of civilians, and Lt. Cullen was unable to immediately locate PO Delacruz and Det. Concordia. He continued into the apartment and found them shortly thereafter. Lt. Cullen recalled that there were females in the apartment but did not recall any of them attempting to obstruct his path. He did not push any females or tell anyone to “get the fuck out of the way.” He did not hear anyone else use profanity towards them.

Lt. Cullen proceeded to the back of the apartment, where he saw § 87(2)(b) sitting on a bed, surrounded by unknown officers. § 87(2)(b) was not yet handcuffed, but was compliant and seemed to accept that he was being placed under arrest. Lt. Cullen instructed an officer to handcuff § 87(2)(b) but was not sure who actually did so.

Lt. Cullen did not use or hear any profanity being used toward any civilians at any time, and specifically denied calling anyone a “fucking liar.” He did not remember a female individual asking for his shield number at any time. When he arrived back outside in the hallway, § 87(2)(b) was already in handcuffs. Lt. Cullen decided to arrest § 87(2)(b) for § 87(2)(a) 160.50 because he had prevented him from entering the apartment.

Lt. Cullen was not aware of being nicknamed “Johnny Bravo” by people in the area.

PO Christopher Heredia

Memo Book (encl. 15)

PO Heredia’s memo book indicated at 5:20, there was a call for assistance at § 87(2)(b) § 87(2)(b). He arrived at 5:25 PM. At 5:35 PM, he transported one male prisoner to PSA 6. At 5:36 PM, he arrived at the stationhouse.

CCRB Testimony (encl. 16)

On August 5, 2009, PO Christopher Heredia was interviewed at the CCRB. PO Heredia is a § 87(2)(b)-year-old Hispanic male, standing 6’1” and weighing 287 pounds, with black hair and brown eyes. He has 4 years’ tenure with the NYPD and is assigned to PSA 6. On August 9, 2008, he worked a tour of 3:00 PM to 11:35 PM, assigned to anticrime in PSA 6. He was partnered with PO Edward Hernandez, dressed in plainclothes and assigned to an unmarked black Impala, numbered 9625.

PO Heredia and PO Hernandez responded to the building and saw many other officers already present in vehicles. They went up to the § 87(2) floor, where the situation appeared to be under control. PO Heredia did not remember what if anything was happening in the hallway or who was present. PO Heredia and PO Hernandez waited by the apartment door, because there were five to ten officers already inside. The apartment door was being held open. He could not see inside due to the number of people. Within several minutes he and his partner were given a prisoner, who was already in handcuffs, to transport. PO Heredia viewed the arrest photographs of § 87(2)(b) and § 87(2)(b) and recognized both but did not remember if either was the person he transported. He never went inside the apartment. He heard voices from inside the apartment but could not distinguish who was speaking, what they were saying, or what their apparent demeanors were. He did not witness any officers pushing anyone and did not hear any profanity used by civilians or officers. He did not observe any civilians lying on the floor or positioned in any manner other than standing.

NYPD Documents

SPRINT § 87(2)(b) (encl. 18)

This SPRINT indicates a larceny in progress was reported at § 87(2) § 87(2)(b) at 4:52 PM. At 5:11 PM, two housing footpost officers (identified by the investigation as PO Delacruz and Det. Concordia) indicated that a complaint report was prepared. Also listed at 5:11 PM, the same two officers put over a 10-85 (request for assistance) at apartment § 87(2)(b). Several units arrived at 5:12 PM, and at 5:13 PM, a request for no further units was put over. All units were accounted for as of 5:17 PM and there was one under arrest at 5:22 PM.

Status of Criminal Cases (encl. 21)

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

Criminal Conviction History (encl. 22)

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

CCRB Histories (encl. 2)

PO Delacruz has never been the subject of a substantiated CCRB allegation in her four years in the NYPD. Det. Concordia has never been the subject of a substantiated CCRB allegation in his 18 years in the NYPD. Lt. Cullen was the subject of two substantiated excessive force allegations in CCRB #9403289, but the NYPD imposed no discipline.

No complainant or victim in this case has been involved in a prior CCRB complaint.

Conclusions and Recommendations

Undisputed and Disputed Facts

The following is undisputed: PO Delacruz and Det. Concordia went to § 87(2) § 87(2)(b) § 87(2)(b) § 87(2)(b), in order to investigate the complaint that § 87(2)(b) had stolen § 87(2)(b)'s iPod. § 87(2)(b) met the officers at the door, briefly spoke with them calmly, then said she would see if § 87(2)(b) was home, and turned and walked into the apartment without actively shutting the door. The officers came inside the apartment, where they were confronted by the § 87(2) family, many of whom repeatedly asked them why they were inside. The officers did not respond and remained inside, and then called a request for assistance. The officers who responded to the location came into the apartment. § 87(2)(b) attempted to block them from entering and was forcibly placed under arrest. § 87(2)(b) was arrested in the back bedroom.

§ 87(2)(b), § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)

Officer Identification

PO Delacruz and Det. Concordia acknowledged their role in this incident. As they were the only two officers initially to respond to the apartment, and they fit the descriptions of the officers with whom § 87(2)(b) spoke at her doorway, there is no dispute that they are the officers who first entered the apartment.

Lt. Cullen has been positively identified as responding to the location via his CCRB testimony, in which he placed himself at the scene. He did not acknowledge performing several actions alleged, but the civilians clearly alleged those actions against the officer they frequently and consistently identified by the nickname, “Johnny Bravo.” PO Delacruz acknowledged that people in the building refer to Lt. Cullen by this name. § 87(2)(g)

Allegations Not Pleaded

§ 87(2)(b) alleged that she asked Lt. Cullen for his shield number. However, she acknowledged that he may not have heard the request, that nothing in his actions indicated that he did hear it, and that she did not repeat the request. Further, as NYPD lieutenants are not assigned shield numbers, this is not a request that Lt. Cullen could have satisfied in any event. § 87(2)(g)

Assessment of Evidence

It is undisputed that the first interactions at the apartment doorway between § 87(2)(b) PO Delacruz and Det. Concordia were polite, and that § 87(2)(b) was cooperative. It is also broadly undisputed that § 87(2)(b) did not close the door behind her when she walked to the back of the apartment. § 87(2)(g)

PO Delacruz stated that § 87(2)(b) told the officers, “One second,” and that the door began to close behind her as she walked back into the apartment. PO Delacruz also said that she placed her foot in the door while remaining outside, and only came into the apartment some time later. Det. Concordia, § 87(2)(g), said that § 87(2)(b) made no comments regarding whether the officers should come inside or stay outside, that the door did not shut behind her, and that the officers immediately stepped inside the apartment. § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(g) Lt. Cullen acknowledged physically removing § 87(2)(b) from his path as he tried to enter the apartment, but denied having any such interaction with a female. § 87(2)(b) § 87(2)(g) stated that she tried to block the officers from moving further back into the apartment and Lt. Cullen grabbed her by an arm and pushed her into a bedroom. § 87(2)(g)

Several civilians made various allegations that Lt. Cullen used profanity. § 87(2)(b) alleged that Lt. Cullen told both him and § 87(2)(b) to “get the fuck out” of his way as he entered the apartment. § 87(2)(b) and § 87(2)(b) consistently alleged that Lt. Cullen called § 87(2)(b) a “fucking liar” in the exterior hallway. § 87(2)(b) further said that Lt. Cullen told her to “shut the fuck up” in the hallway. § 87(2)(b) did not corroborate any of these discourtesy allegations, while § 87(2)(b) did not corroborate the allegations made by § 87(2)(b) and § 87(2)(b) and vice versa. § 87(2)(g)

Allegation A: PO Berenice Delacruz entered § 87(2)(b) § 87(2)(b) § 87(2)(b) in Manhattan.

Allegation B: Det. Severino Concordia entered § 87(2)(b) § 87(2)(b) § 87(2)(b) in Manhattan.

The officers had no warrant to enter § 87(2)(b)'s apartment. In the absence of a warrant, officers may enter a premises only if there are exigent circumstances, if there is consent for them to enter, or if they are engaged in hot pursuit of a suspect (encl. 1). Hot pursuit only applies to circumstances where a suspect attempts to “thwart an otherwise proper arrest, set in motion in a public place, by escaping into his residence,” as noted in Kamins (encl. 1). § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Operations Order 29, which went into effect June 18, 2008, directs members of service assigned to the Detective Bureau to “obtain permission from a person with an expectation of privacy of an address... to search such premise... without a search warrant” (encl. 1c-f). This order established that detectives should ask the occupants of the premises to sign a “consent to search” form, which explicitly grants them authority to conduct a search. The order further directs officers to “**IMMEDIATELY** [emphasis original] cease the search if consent is withdrawn” (encl. 1d).

§ 87(2)(g)

§ 87(2)(g)

Allegation C: Officers entered § 87(2)(b), § 87(2)(b), § 87(2)(b) in Manhattan.

It is undisputed that many additional officers, including Lt. Cullen, came directly into the apartment following the request for assistance put over the radio by PO Delacruz and Det. Concordia.

§ 87(2)(g)

The officers who responded to the request for assistance arrived at a situation where the requesting officers, PO Delacruz and Det. Concordia, were inside an apartment, not visible from outside, and among a group of yelling civilians.

§ 87(2)(g)

Allegation D: Lt. Dennis Cullen used physical force against § 87(2)(b) and § 87(2)(b)

Lt. Cullen acknowledged forcibly removing § 87(2)(b) from his path as he tried to respond to the officers' request for assistance. He did not admit similarly to pushing § 87(2)(b) out of the way by her arm, § 87(2)(g). § 87(2)(b) acknowledged that she intentionally stood in the way of the officers who responded to the request for assistance in the apartment, and stated that Lt. Cullen grabbed her by one arm and shoved her out of his path. § 87(2)(g)

§ 87(2)(b) allegedly suffered a bruise, which was a consequence of her making incidental contact with furniture after she was pushed, and § 87(2)(b) did not allege any notable injuries.

§ 87(2)(g)

Allegation E: Lt. Dennis Cullen spoke obscenely and/or rudely to § 87(2)(b), § 87(2)(b) and § 87(2)(b)

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: